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October 19, 2007

**BY MESSENGER**

Hon. George B. Daniels  
United States District Judge  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl St., Room 630  
New York, NY 10007

Re: Patrick J. Lynch, et al., v. City of New York, et al.  
United States District Court, Southern District of New York  
Case No. 07 Civ. 9337

Dear Judge Daniels:

This firm represents the Plaintiffs in the above captioned case which was filed yesterday and assigned to Your Honor as a case related to *Palladino et al v. The City of New York et al.* One of the items of relief requested in our papers was the issuance of a Temporary Restraining Order, a form of relief not requested by the Plaintiffs in *Palladino*. Inasmuch as we made this additional emergency application we telephoned your Chambers promptly after the filing to request the opportunity to be heard yesterday and we were standing by to appear. We also notified our adversary, Mr. Schlesinger of the Corporation Counsel's Office, who agreed to make himself available for an appearance. Having been told by your Chambers that we would receive a telephone call regarding our request, and having heard nothing from Chambers all afternoon, we telephoned at approximately 4:30PM. At that time we were advised that Your Honor had not ruled on our request but we were directed to participate in a briefing schedule that was set by the parties in *Palladino* culminating in our appearing before Your Honor on November 20.

The Patrolman's Benevolent Association represents approximately 24,000 police officers — more than double the number of members of the Police Department represented by the Plaintiffs in *Palladino*. More importantly, the officers represented by the PBA are not superior officers or detectives, as they are in *Palladino*, but are

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patrolmen who are every day on the front lines of policing in the city and much more likely to be involved in situations where their weapons are fired. Based on past experience it is virtually certain that a good number of police officers we represent will be called upon to fire their weapons between today and November 20, the day now scheduled for our first appearance before the Court. (In fact we have been advised that a shooting occurred last night.) Under Interim Order 52, these police officers will be compelled to undergo alcohol testing which as we point out in our papers is unconstitutional under the Fourth Amendment. We contend that these violations of constitutional rights should not be permitted to continue to occur while the briefing schedule now set by the Court plays out. At the very least the Plaintiffs are entitled to a prompt hearing on our application for a Temporary Restraining Order and a decision by the Court relating thereto.

In light of the foregoing we respectfully request that Your Honor schedule a hearing on our application later today or as soon as possible thereafter.

Respectfully submitted,



Thomas P. Puccio

TPP/jam

Cc: Alan Schlesinger (*via* facsimile)

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**TELECOPY/FACSIMILE COVERSHEET**

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From: Thomas P. Puccio

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TO: Alan Schlesinger

COMPANY: Corporation Counsel of the City of New York

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